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8
9 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA

10 **EASTERN DIVISION - RIVERSIDE**

11 STEPHENSON AWAH TENENG,
12 MARCEL NGWA, ANKUSH
KUMAR, GURJINDER SINGH,
13 ATINDER PAUL SINGH, NOE
MAURICIO GRANADOS AQUINO,
14 and all others similarly situated,

15 Plaintiffs,

16 v.

DONALD J. TRUMP, President of the
17 United States,
KIRSTJEN NIELSEN, Secretary
18 Department of Homeland Security;
RONALD D. VITIELLO, Acting
19 Director, Immigration and Customs
Enforcement;
20 DAVID MARIN, Field Office Director,
Los Angeles Field Office of
21 Immigration and Customs Enforcement;
JEFFERSON BEAUREGARD
22 SESSIONS, III, U.S. Attorney General;
HUGH J. HURWITZ, Acting Director,
23 Federal Bureau of Prisons,
DAVID SHINN, Warden, FCI
24 Victorville Medium Security Prison I/II,
in their official capacities only,

25 Defendants
26
27
28

Case No. 5:18-CV-01609-JGB-KK

**DECLARATION OF MARGOT
MENDELSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

DATE: Oct. 15, 2018
TIME: 9:00 a.m.
JUDGE: Hon. Jesus G. Bernal
CRTRM: 1

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27 Attorneys for Plaintiffs, on *behalf of*
28 *themselves and others similarly situated*

1 I, Margot Mendelson, declare as follows:

2 1. I am an attorney at law admitted to practice before the courts of the
3 State of California and before this Court. I am a Staff Attorney at the Prison Law
4 Office, and counsel for Plaintiffs in this litigation. I make this declaration in support
5 of Plaintiffs' Motion for Preliminary Injunction. If called as a witness, I would and
6 could competently testify to the facts stated herein, all of which are within my
7 personal knowledge.

8 2. Attached herein as **Exhibit 1** is a true and correct copy of a transcript
9 of a video from the following webpage:
10 [https://m.facebook.com/story.php?story_fbid=473808243115235&id=16764389665](https://m.facebook.com/story.php?story_fbid=473808243115235&id=167643896656391)
11 [6391](https://m.facebook.com/story.php?story_fbid=473808243115235&id=167643896656391)
12

13 3. The video contains an interview of John Kostelnik, who stated that he
14 is the president of AFGE 3969, which represents employees at FCI Victorville. The
15 interview was conducted by U.S. Representative Ted W. Lieu on August 27, 2018.

16 4. The interview was transcribed by a professional transcriptionist, Lissa
17 Ireland. Ms. Ireland's signed statement appears at the end of the transcript.
18

19 Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the
20 foregoing is true and correct.

21 Executed this 5th day of September, 2018, in Berkeley, California.
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23
24

25 /s/ Margot Mendelson
26 Margot Mendelson
27 *Attorney for Plaintiffs*
28

EXHIBIT 1

Stephenson Teneng, et al. v. Donald J. Trump, et al.

FACEBOOK LIVE INTERVIEW BY CONGRESSMAN TED LIEU OF JOHN

KOSTELNIK, PRESIDENT OF AFGE 3969 AT VICTORVILLE FEDERAL PRISON

Congressman Lieu: Hello, I'm Congressman Ted Lieu. I'm here at Victorville Federal Prison and I'm here with John Kostelnik, who is the president of AFGE 3969.

John Kostelnik: Yes sir.

Congressman Lieu: And, we're here to talk to you about what's happening at Victorville Prison. They have had between 400 to 1,000 detainees here and this is a prison that has thousands of inmates in addition to these detainees of which 1,200 are in the maximum-security prison. And so, John what I want to ask you is when the administration put in all these detainees at Victorville, um, did they increase staffing resources?

John Kostelnik: No, um, the minute we got notified of this, uh, mission, uh, receiving detainees, uh, it's one of the first things that the union, um, brought up was the fact that we need staff. Um, since that time, we have not received a single staff member.

Congressman Lieu: And, has that affected the security in the maximum-security area?

John Kostelnik: Yes, um, in multiple ways. Uh, we've had people reassigned, um, to cover the, uh, increase in the detainees and movement of the other inmates from that facility, um, as well as, uh, you know, the overtime, the, uh, stress that's being put on our staff, um, from a standpoint of being short, um, and having to cover our bases, uh, basically, the simple mathematics is - is, um, we had 3,500 inmates. We had approximately 900 staff. You've increased it by 1,000, um, detainees and we still have 900 staff, um, and we, you know, you get, basically, stretched thin. You know, we're at that point where, uh, we've been stretched so thin that, um, it's almost broke us.

Congressman Lieu: How many doctors are there for all of those people?

John Kostelnik: Uh, we have two doctors; one of the doctors is a, uh, administrator, a clinical

1 director, um, he does practice, but, for all those inmates and detainees, we have two.

2 Congressman Lieu: So, other than the administrator, you especially - you essentially have one
3 doctor.

4 John Kostelnik: Yes.

5 Congressman Lieu: And, you've had an outbreak here of scabies ...

6 John Kostelnik: Mm-hm.

7 Congressman Lieu: ... and, uh, chicken pox. Is that right?

8 John Kostelnik: Yes, we've, uh, we've had almost, uh, around 60 cases of scabies. Um, we've
9 had, uh, approximately 30 cases of, uh, chicken pox now. Um, it's been an ongoing and continuous
10 issue that won't cease until we actually see the staff.

11 Congressman Lieu: And, in terms of the morale of the staff here, how would you describe that?

12 John Kostelnik: Um, our morale's extremely low. Um, we're doing a job that - it- it's kind of a
13 thankless job so we already understand that. Um, you know, we're all law enforcement officers, we
14 love what we do, um, but the only kind of thanks that we ever really look for is thanks from our own
15 managers or our - our own agency and, uh, in doing so, it's, uh, giving us the resources and the
16 staffing that we need to do the job. Um, and in doing so, if we have the staff - if we have the
17 resources, we have the equipment, um, we're all happy and we'll do our jobs. Nobody will ever hear
18 from us and, uh, we'll keep the community safe. But, um, right now, we're not seeing any of that
19 stuff from this agency and, uh, our morale is really low and, uh, it's not looking any better.

20 Congressman Lieu: And, it's also costing the federal government more money because everyone
21 has to do all this massive overtime.

22 John Kostelnik: Yes, the amount of overtime, uh, we even have the mandatory overtimes now
23 where, uh, our staff are basically, uh, after their eight-hour shift, uh, are forced to stay another eight-
24 hours. Uh, you know, regardless of what they have going on at home with their families and in their
25 personal lives, um, it's completely affected them. Um, outside of that, we're using staffing from

1 other facilities who are also short as it is. Um, they're sending their staff down here as a band-aid,
2 um, to try to help us with the staffing issue, um, which is costing tons of money, um, in resources,
3 such as, you know, they gotta pay them per diem, their hotel - their hotel costs, all those things they
4 have to pay for these TDY staff when all we need to do is hire - just hire some more people.

5 Congressman Lieu: Again, I'm Congressman Ted Lieu here, I'm here with John Kostelnik, the
6 President of the correctional officers here in Victorville Federal Prison and I know that food issues
7 have been a problem and for folks, uh, who have been quarantined or separated from the general
8 population, I know that they get food served to them. Can you just describe what is - what do they
9 actually get served?

10 John Kostelnik: So, um, due to, uh, again, a shortage in staff in, uh, food service, um, and our
11 resources and equipment that we don't have, um, we're forced to, basically, uh, go through a
12 contract and purchase, uh, kind of like a box meal, and, uh, the box meal consists of, uh, basically
13 two pieces of bread, um, some peanut butter, uh, some chips or crackers, um, and a drink. That's all
14 that they're given. Um, it is - I will say that it is, um, according to them, up to nutritional standards,
15 um, but, uh, still that's all that they're getting.

16 Congressman Lieu: And, o- of the detainee population, a - a significant number were actually
17 Indian and Punjabi. Sheikh. Is that correct?

18 John Kostelnik: Yes. Uh, actually, a very high, uh, number of those, uh, detainees that we have
19 are those.

20 Congressman Lieu: And, there are language issues, is that right?

21 John Kostelnik: Huge language issues where, uh -- we received no training, um, in how to even
22 deal with these cultures, um - uh, we don't have translators on sight, um, so we've had to, basically,
23 uh, adapt to communication with these guys, whether it be through, like, a form of sign language, not
24 official sign lang- sign language, um, or through using somebody in that, um, culture, in that group,
25 that speaks some English. Um, it's - it's been kind of an obstacle but, uh, our staff have managed it

1 somewhat due to that, but we've had no assistance from anybody (unintelligible).

2 Congressman Lieu: Well, thank you for speaking with me today and for telling the American
3 public, uh, some of the problems here at Victorville Federal Prison, uh, I will look into this and we
4 will try to, uh, see what we can do to make things better. Uh, I also - I wanted to let you know, I was
5 on, uh, Washington Journal with CSPAN earlier this year. Uh, one of your guards actually called
6 into the show and he was exp- explaining that you got 1,000 detainees here, no additional resources,
7 there are all these problems. He wanted me to come take a look, so I came today to take a look and,
8 uh, the problem's very real. Thank you for doing the best you can given the resources you have and
9 look forward to working with you as we try to make things better.

10 John Kostelnik: Yes, sir, and I - we greatly appreciate you coming and, uh, look forward to wor-
11 uh, working with you and we appreciate all your staff and everybody in your office.

12 Congressman Lieu: Thank you, John.

13 John Kostelnik: Thank you, sir.

14 [END OF RECORDING]


15 2018.08.27 Congressman Ted Lieu interview at Victorville
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Transcriptionist's Certificate

I, Lissa R. Ireland, declare under penalty of perjury that I was assigned to transcribe verbatim, a video recording entitled, "2018.08.27 Congressman Ted Lieu interview at Victorville"; that I thereafter did transcribe said video, to the best of my ability and knowledge, and the pages numbered 1 through 4, inclusive, constitute an accurate, complete, true and correct transcript of the audio recording.

Executed on this 2nd day of September, 2018 in San Jose, California.

Lissa's Transcription Service


Lissa R. Ireland, Transcriptionist